

REMARKS

Claims 1 and 3-12 are pending in the present application, of which claims 1, 3 and 9 are independent. No claims have been amended, canceled or added in this Response. Claims 3-5 and 9 were found to be allowable.

The rejection of claims 1, 6-8 and 10-12 under 35 U.S.C. § 102(b) over Yamaguchi has been maintained. Applicants traverse this rejection.

The final Office Action asserts that "Yamaguchi teaches a combination comprising 99 to 1 parts MIT and 1 to 99 parts MBI." In fact, the disclosure of Yamaguchi is not specific, disclosing only a microbicide containing "1 to 99 parts by weight of a benzisothiazolone derivative of general formula I and 99 to 1 parts by weight of an isothiazolone derivative of general formula II." (para. 9, emphasis added). Even if one were to limit the general formulas to the compounds listed in paragraphs 13 and 14 (these are listed only as "examples" and not "preferred"), there still would be eight compounds exemplified for formula I and six for formula II, giving 48 possible biocide combinations. Moreover, Yamaguchi does not disclose the claimed range of 750:1 to 1:1. "If the claims are directed to a narrow range, the reference teaches a broad range, and there is evidence of unexpected results within the claimed narrow range, depending on the other facts of the case, it may be reasonable to conclude that the narrow range is not disclosed with 'sufficient specificity' to constitute an anticipation of the claims." M.P.E.P. § 2131.03(II). Here, synergy has been demonstrated from 750:1 to 1:1, whereas the reference discloses a range of 99:1 to 1:99. The reference thus teaches a broad range, not supported by data, for a large number of biocide combinations, while the present invention demonstrates synergy for an overlapping, but quite distinct range. Therefore, Applicants respectfully submit that the disclosure of the reference lacks "sufficient specificity" to support the anticipation rejection.

If the Examiner has any concerns regarding the application, Applicants respectfully request that the Examiner contact Applicants' undersigned attorney by telephone to discuss the issues.

Respectfully submitted,



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